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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED 2007 DEC 17 AM 9:58

UNITED STATES OF AMERICA, Plaintiff, v. **1.) Cesar Ricardo FIMBRES-Perez** **2.) Olivia FIMBRES**	Magistrate Case No. '07 MJ 2919 COMPLAINT FOR VIOLATION OF: Title 8, U. S. C. Sec. 1327 Aiding Entry of Aggravated Felon(s) (Felony) Title 18, U. S. C., Section. 111 Assault on a Federal Officer (Felony)

KNH DEPUTY

The undersigned complainant being duly sworn, states:

COUNT ONE

That on or about **December 15, 2007**, within the Southern District of California, defendants **Cesar Ricardo FIMBRES-Perez and Olivia FIMBRES**, did knowingly and willfully aid and assist (a) certain alien, **Miguel FIMBRES-Perez**, who is/are excludable pursuant to Title 8, United States Code, Section 1192(a)(2), having previously been convicted of an aggravated felony, to enter the United States; in violation of Title 8, United States Code, Section 1327.

COUNT TWO

That on or about **December 15, 2007**, within the Southern District of California, defendant **Olivia FIMBRES**, did forcibly assault, resist, oppose, impede and interfere with Agent L. Pino, an agent of the United States Border Patrol, while Agents L. Pino and L. Ramos were engaged in or on account of the performance of their official duties; a felony, in violation of Title 18, United States Code, Sections 111 and 1114.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

Terri L. Dimolios
SIGNATURE OF COMPLAINANT

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 17th DAY OF **DECEMBER 2007**

William McCurine, Jr.
UNITED STATES MAGISTRATE JUDGE

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CONTINUATION OF COMPLAINT:
1.) Cesar Ricardo FIMBRES-Perez
2.) Olivia FIMBRES

PROBABLE CAUSE STATEMENT

On December 15, 2007, Border Patrol Agents L. Ramos and E. Vito were assigned to an area known as the "Whiskey 15" position at the Imperial Beach area of operations. Border Patrol Agent L. Pino was also assigned to the area and was working in plain clothes as a member of a quick response team. Whiskey 15 is an area near the Border Field State Park and is approximately five miles west of the San Ysidro Port of Entry and adjacent to the United States/ Mexico international border fence. The western border of Border Field State Park is the Pacific Ocean. At approximately 5:30 p.m., Agent Ramos observed two individuals enter into the United States without inspection. The two individuals walked a few yards into the United States and then returned to Mexico. The two individuals repeated their actions twice before illegally entering a third time and continuing northbound along the shoreline. Agent Ramos observed that one of the individuals was wearing a yellow striped jacket. Agent Ramos relayed this information to Agent Vito and continued to observe the two individuals walking up the beach.

Agent Vito responded to the shoreline to intercept the two individuals but his vehicle became disabled about ten yards north of the borderline. Agent Vito then responded to the two individuals on foot and encountered them directly west of the Border Field State Park lower parking lot. The parking lot is approximately 150 yards north of the international fence. Agent Pino also responded to the shoreline and assisted Agent Vito. The two individuals claimed to be "Messing around with the Border Patrol" and didn't mean any harm. Both individuals stated that they were United States citizens born in San Diego, California and wanted to return to Mexico. Both individuals were escorted to the Border Field State Park lower parking lot in order to perform record checks. The agents and both individuals were met at the lower parking lot by Agent Ramos. Agent Ramos began to interview one of the two individuals later identified as defendant #1 **Cesar Ricardo FIMBRES-Perez**. Agent Vito began to interview the other individual later identified as aggravated felon Miguel FIMBRES-Perez.

While being interviewed by Agent Ramos, M. FIMBRES began to walk south towards Mexico. Agent Ramos ordered M. FIMBRES to stop walking south and return to the park's lower parking lot. M. FIMBRES refused to comply with Agent Ramos' order and stated that he was going to talk to his sister who was in Mexico. Agent Ramos then physically attempted to prevent M. FIMBRES from returning to Mexico by wrestling him to the ground. M. FIMBRES being a much bigger individual was able to escape Agent Ramos' grasp by getting to his feet, slipping out of his jacket, and running south towards Mexico. Agent Ramos relayed to Agent Pino information concerning the fleeing individual.

Park Ranger Jonathan Irwin of the State of California Department of Parks and Recreation was also present at Border Field State Park and was observing the two Border Patrol Agents and the FIMBRES brothers at the lower parking lot. Ranger Irwin was conducting his duties and was preparing to close the park to all civilian traffic. Ranger Irwin observed Agent Ramos' attempts to restrain M. FIMBRES and observed the subject run southbound towards Mexico. Ranger Irwin pursued M. FIMBRES in his department issued truck and managed to park in front of the fleeing subject about twenty feet north of the border fence. Agent Pino responded to the area to assist and was able to intercepted M. FIMBRES as he ran around the back of Ranger Irwin's truck. As M. FIMBRES came around the back of the truck he started to slip and placed his hand on the sand. M. FIMBRES then stayed in a fighting stance. As Agent Pino attempted to apprehend M. FIMBRES he head butted Agent Pino in the chest and started to drag Agent Pino towards the United States/ Mexico border fence. Ranger Irwin exited his truck and assisted Agent Pino but M. FIMBRES continued to struggle and would not comply with commands to stop resisting. M. FIMBRES continued to crawl and slowly inched his way closer to the border fence.

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CONTINUATION OF COMPLAINT:
1.) Cesar Ricardo FIMBRES-Perez
2.) Olivia FIMBRES,

Agent Ramos arrived on foot to assist in the arrest as M. FIMBRES continued to struggle with both agents and the park ranger. At that point a female later identified as defendant #2 **Olivia FIMBRES** illegally entered the United States by running across the United States/ Mexico International boundary. Defendant #2 started to yell "Leave him alone, let him go back to Mexico, He's my husband." Defendant #2 also started to pull both agents and the park ranger from M. FIMBRES. Defendant #2 also began to assist M. FIMBRES in his struggle by pushing him south and interfering with the two agents and the park ranger. Agents Pino and Ramos both pulled defendant #2 off of her husband numerous times and ordered her to stop interfering with federal agents while attempting to perform their official duties. Defendant #2 disobeyed the agents' commands to stay away from them and continued to pull them off of M. FIMBRES. Every time the two agents and the park ranger would start to pull M. FIMBRES away from the fence, defendant #2 would jump on top of her husband. As the agents and the park ranger tried to pull on M. FIMBRES away from the fence the defendant #2 would grab Agent Pino's right arm and caused him to lose his grip of M. FIMBRES. This intervention occurred numerous times. Defendant #2 also attempted to push Agent Pino and Agent Ramos away from M. FIMBRES. This made it impossible for the agents to pull M. FIMBRES away from the fence.

Because M. FIMBRES continued to struggle and defendant #2 was interfering with his arrest, Agent Pino deployed his agency issued oleoresin capsicum spray into the face of M. FIMBRES. The oleoresin capsicum spray didn't have any immediate effect on M. FIMBRES and he continued to struggle south towards Mexico. Agent Pino also attempted to spray his oleoresin capsicum spray into the eyes of defendant #2 but the can was empty. At the same time that defendant #2 arrived at the scene approximately a dozen other individuals from Mexico also arrived. The onlookers began to scream at the agents attempting to arrest M. FIMBRES. When M. FIMBRES grabbed the metal pillars that are part of the border fence, the onlookers grabbed his arms and tried to pull him back into Mexico. A short tug of war ensued between the two agents, park ranger and the onlookers before M. FIMBRES was pulled into Mexico. Once M. FIMBRES returned to Mexico, Agent Pino placed defendant #2 into custody for impeding federal agents. At this time Defendant #1 and #2 were arrested and transported to the Imperial Beach Border Patrol Station for processing.

Terri L. Dimonos
Senior Patrol Agent

William McCurine Jr.
U.S. Magistrate Judge

12/17/07, 0944hrs
Date/Time